



# PLANNING COMMISSION SYNOPSIS

May 5, 2011

## CALL TO ORDER

Chairperson Klassen called the Planning Commission Meeting to order at 6:00 p.m. in the Council Chambers of the Bloomington Civic Plaza.

**COMMISSIONERS PRESENT:** Klassen\*, Nordstrom, Willette\*, Fricke, Felkner, Marsh (\*were not present for the required 2/3 of the meeting)

**COMMISSIONERS ABSENT:** Oleson

**STAFF PRESENT:** Sharlin, Farnham, Marohn, Hiller

Klassen led the attendees in the reciting of the *Pledge of Allegiance*.

## ITEM 1

6:03 p.m.

<b>CASE:</b>	8055A-11
<b>APPLICANT:</b>	Eric Hillger dba Fowler Electric Co., Inc.
<b>LOCATION:</b>	9054, 9060 and 9100 Grand Avenue
<b>REQUEST:</b>	Interim Use Permit for Open Storage

## APPEARING FOR THE APPLICANT:

Eric Hillger, owner, Fowler Electric Co., Inc.

## DISCUSSION BY THE COMMISSION:

Sharlin summarized the staff report for Case 8055A-11 recommending approval of a Three Year Interim Use Permit for Open Storage at 9054, 9060 and 9100 Grand Avenue subject to 9 conditions and 4 code requirements listed in the staff report.

Fricke asked for clarification on why staff is recommending the term of the requested IUP to be three years and not five years as requested by the applicant. Sharlin stated to be consistent with other IUPs approved for open storage in the past year, staff would support no more than a three-year period which, when coupled with the current one-year IUP would result in a four year total time period for the open storage use. Fricke asked staff to explain what code compliance issues would need to be complied with if the IUP were to be granted to be eligible to reapply for another IUP. Sharlin stated code compliance issues involve storage surface requirements, storm water management, and lighting requirements. Fricke asked for clarification on the zoning of the sites and the surrounding zoning. Sharlin stated all three parcels are zoned I-3 and the surrounding zoning is I-3. Sharlin stated the Comprehensive Plan recommends Industrial land use for the applicant parcels and the adjacent parcels.

Marsh asked for clarification regarding the recommended three year IUP term for these properties. Sharlin stated open storage for these properties is not a permanent use and staff feels three years is enough time to bring the property up to code compliance for the use.

Felkner asked staff to clarify the process with the one-year IUP expiring and the application for a new IUP for these properties. Sharlin stated the current IUP was granted for a one year term expiring April 26, 2011, the applicant applied for the requested five-year IUP before the expiration date of the current

IUP which allows the continued use until the new request is acted upon. Sharlin stated once a property is granted an IUP, the property must be brought up to date regarding the development standards before another IUP can be applied for. He stated staff is attempting to be consistent by treating this request in the same manner it has handled other open storage IUP requests within the last year which is to recommend a three year IUP to allow the property owner to bring the property up to date with regard to development standards such as surface parking, storm water management and lighting standards.

Marsh asked staff to explain how compliance can be assured if the three year IUP is granted. Sharlin stated it is the policy to issue a three year IUP to allow a property to come into compliance with development standards. Sharlin stated code enforcement is done in two ways: complaint based and/or systematic visits conducted by environmental health inspectors.

Nordstrom stated looking back at the history of the use of this property for open storage, there were a number of continuances granted to allow the property owner/user to bring the property into compliance with nuisance standards before the one year IUP was eventually granted in 2010. He noted the property owner/user has once again brought the property into compliance near the end of the current period. Nordstrom stated staff is recommending a three year IUP which seems like an adequate amount of time to bring the property up to compliance with the development standards if the property owner/user sets up a plan to address the development standards staff is telling the applicant that need to be addressed.

Eric Hillger stated he is the son of the property owner James Hillger. He stated the cargo container that was recently removed and brought the properties into compliance was in place at the time the one-year IUP was granted and was either overlooked or missed at that time so he was unaware the container was in violation until he received a correction order recently. He explained where the cargo container was stored and confirmed it has now been removed. He explained his father is the owner of the properties and is now retired and living in the residence at 9100 Grand Avenue. He stated his father has been having some health problems and is planning to move up north when he is able. He stated he is now running the business and during the transition there has been a lot of clean up on the property. He stated he is asking for a five-year IUP because he feels three years will not be enough time to put aside the money needed to comply with the development standard requirements. Hillger stated he supplies a much needed use (open storage) as many of his tenants store tree removal/construction equipment, boats, trailers, and classic cars that Bloomington residents are unable to store at their homes due to City Code. He stated he has every intention to stay into compliance with the development and nuisance standards he is being asked to adhere to.

Willette asked the applicant to comment on code requirement number four regarding "no storage of abandoned or inoperable vehicles". Hillger stated he stores a number of classic cars, but all are currently registered and have the proper collector plates.

Klassen asked Hillger if he plans to keep the property in compliance with the development standards and nuisance standards or if he plans to part with the property after the requested IUP would expire. Hillger stated it is his intent to keep the property in compliance and to continue the use of open storage, but the property technically still belongs to his father and he still needs to move on from it.

Nordstrom suggested Hillger enlist the services of a financial advisor to help him put together a plan to allow him to meet the development standards because the term expiration for the proposed IUP always seems to come faster than anticipated. Hillger stated he has a good relationship with the manager of Premier Bank on 98<sup>th</sup> Street and the family's accountant has helped him and his father for the past 40 years. He stated he does have some ideas of the costs (approximately \$50,000-\$60,000) associated with what it will take to bring the properties up to code with the development standards.

Willette noted since some of his tenants are construction companies that perhaps he could make arrangements for some of his tenants to help him construct the storm water management and hard paving surfaces needed to come into compliance with the development standards in exchange for allowing them to store their equipment at the site. Hillger stated he has not yet discussed this with his tenants.

Nordstrom stated he feels the term of three years is adequate and lengthening the term to five years is not needed for the applicant to either come into compliance with the development standards or find another use for the properties.

Fricke stated he feels a five year term for the IUP would be more appropriate since it would allow the applicant more time to set aside money for the costs associated with bringing the properties up to code.

Marsh stated she would support a one year term for the IUP since there has been a history of compliance issues with the property and the property sounds like it may transfer ownership to the son relatively soon. Sharlin addressed the term issue by stating most of the five year IUPs issued recently by the City have been for airport parking where requirements for storm water management and hard surface parking development standards have already been met. He stated in the situation of IUPs for open storage the City is looking for improvements to the property or redevelopment to see better uses of properties to ensure the use would not be injurious to the surrounding neighborhood or otherwise effect the public health, safety and welfare.

Klassen asked for clarification from staff on their recommendation regarding this application. Sharlin stated since the applicant has come into compliance with regard to the written orders from Environmental Health, staff recommends approval of a three year IUP for the properties with the 9 conditions and 4 code requirements listed in the staff report. Klassen stated he feels he could support the requested five year term if the applicant could show he has a financial plan in place to meet the development standards. He urged the applicant to have that plan in place by the time this application goes to City Council on May 16 which may help his case with regard to the requested five year term for the IUP.

Klassen stated this item will be heard at the May 16, 2011 City Council meeting.

Klassen excused himself from the meeting.

#### **ACTIONS OF THE COMMISSION:**

**M/Willette, S/Nordstrom:** To close the Public hearing. Motion carried 6-0.

**M/Felkner, S/Nordstrom:** Having met the findings in Case 8055A-11, the Planning Commission recommends approval of a Three Year Interim Use Permit for Open Storage at 9054, 9060 and 9100 Grand Avenue subject to 9 conditions and 4 code requirements listed in the staff report. Motion carried 4-2. (Marsh and Fricke voting against)

#### **CONDITIONS OF APPROVAL RECOMMENDED BY THE COMMISSION:**

- 1) Open storage shall be allowed only in those locations shown on the site plan approved in Case 8055A-11;
- 2) The open storage may consist of those items listed in Case 8055A-11, but must not include landscaping or construction debris;
- 3) The existing solid fence screening on 9100 Grand Avenue will be maintained;

- 4) The area between Grand Avenue and the single-family homes must remain and be maintained as grass yard areas, except for the area where the driveway enters the property on 9060 Grand Avenue, and must not be used for any other non-residential use;
- 5) No storage or accessory buildings are allowed between the single-family homes and their corresponding detached garages;
- 6) No on-street parking allowed;
- 7) No additional illegal temporary accessory structures shall be added to the site;
- 8) Any repair, rebuilding and painting of vehicles, machinery and equipment must be within a complying building, not in an accessory structure; and
- 9) The site consisting of all three properties must be kept in a neat and orderly manner and free of weeds and trash;

and subject to the following Code requirements:

- 1) All trash and recyclable materials be stored inside the principal building (Sec. 19.51);
- 2) Fire lanes be posted as approved by the Fire Marshal (Uniform Fire Code Sec. 901.4);
- 3) No storage of abandoned or inoperable vehicles (Sec. 8.37); and
- 4) Retail sales are subject to the requirements in Section 19.33 Industrial (I-1, I-2, and I-3) Districts.

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